

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Geographic Partitioning and Spectrum	)	WT Docket No. 96-148
Disaggregation by Commercial Mobile	)	
Radio Services Licensees	)	
	)	
Implementation of Section 257 of the	)	GN Docket No. 96-113
Communications Act --	)	
Elimination of Market Entry Barriers	)	
	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: March 7, 2000**

**Released: April 13, 2000**

By the Commission:

**TABLE OF CONTENTS**

	<u>Paragraph No.</u>
<b>I. INTRODUCTION AND EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>II. BACKGROUND.....</b>	<b>2</b>
<b>III. DISCUSSION .....</b>	<b>6</b>
<b>A. The Rural Telco Restriction.....</b>	<b>6</b>
<b>B. Entrepreneur Block Spectrum Swaps .....</b>	<b>10</b>
<b>C. Submission of Contracts for Sale .....</b>	<b>13</b>
<b>IV. CONCLUSION.....</b>	<b>15</b>
<b>V. ORDERING CLAUSES .....</b>	<b>16</b>

## I. INTRODUCTION AND EXECUTIVE SUMMARY

1. On December 13, 1996, we adopted rules for geographic partitioning<sup>1</sup> and spectrum disaggregation<sup>2</sup> for broadband Personal Communications Services (PCS).<sup>3</sup> On February 5, 1997, the National Telephone Cooperative Association and the Independent Alliance (NTCA) and Omnipoint Corporation (Omnipoint) filed Petitions for Reconsideration of the *Partitioning and Disaggregation Report and Order*.<sup>4</sup> On February 20, 1997, the Rural Telecommunications Group (RTG) filed a Motion for Stay Pending Judicial Review (RTG Motion) to stay the effective date of the rules. In this *Memorandum Opinion and Order*, we deny the Petitions for Reconsideration and dismiss RTG's motion as moot.<sup>5</sup> We also affirm our decisions to eliminate the restriction permitting partitioning only to rural telephone companies,<sup>6</sup> to prohibit entrepreneur block licensees from swapping spectrum blocks with non-entrepreneur block licensees in the same geographic market, and to require the filing of the associated contract for sale and related documents together with any partitioning and/or disaggregation application that is filed within the first three years following issuance of a new PCS license through competitive bidding.

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<sup>1</sup> "Partitioning" is the assignment by a licensee of geographic portions of its license to a third party.

<sup>2</sup> "Disaggregation" is the assignment by a licensee of discrete portions or "blocks" of spectrum licensed to a geographic area licensee or qualifying entity.

<sup>3</sup> Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Service Licensees, WT Docket No. 96-148, *Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd. 21831 (1996) (*Partitioning and Disaggregation Report and Order*). The effective date of the new rules was March 7, 1997.

<sup>4</sup> Referred to herein as the NTCA Petition and Omnipoint Petition, respectively. Oppositions to the Petitions for Reconsideration were filed by AT&T Wireless Services, Inc. (AT&T), GTE Service Corporation (GTE), and U.S. West, Inc. (U.S. West) on April 2, 1997. In addition, NTCA filed a Reply on April 14, 1997. Various parties have submitted ex parte filings (See Appendix).

<sup>5</sup> AT&T, GTE, the Personal Communications Industry Association and 3 Rivers PCS, Inc., opposed RTG's Motion. In its Motion, RTG noted that it had filed a Petition for Review with the U.S. Court of Appeals for the D.C. Circuit on February 5, 1997, and it requested that the Commission stay the effectiveness of the new rules to preserve the *status quo* until the Court had the opportunity to pass on the validity of the *Report and Order*. See RTG Motion at 1-2; *Rural Telecommunications Group v. FCC*, D.C. Cir. No. 97-1077. On February 27, 1997, RTG filed an Emergency Motion for Stay with the Court (RTG Emergency Motion). The Commission filed its Opposition to the Emergency Motion on March 4, 1997. The Court denied RTG's Emergency Motion on March 5, 1997, and the new rules went into effect as scheduled on March 7, 1997. See *Rural Telecommunications Group v. FCC*, D.C. Cir. No. 97-1077 (issued March 6, 1997). Given the Court's action, RTG's Motion and the responsive pleadings are moot.

<sup>6</sup> A rural telephone company (rural telco) is a local exchange carrier operating entity to the extent that such entity: (1) Provides common carrier service to any local exchange carrier study area that does not include either; (i) Any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or (ii) Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993; (2) Provides telephone exchange service, including exchange access, to fewer than 50,000 access lines; (3) Provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or (4) Has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1998. 47 C.F.R. § 24.720(e) (1998). See former section 24.714 of the rules, 47 C.F.R. § 24.714 (1996), for the geographic partitioning rule for rural telcos.

## II. BACKGROUND

2. Our initial rules for broadband PCS were adopted in the *Broadband PCS Second Report and Order*<sup>7</sup> and amended in the *Broadband PCS Memorandum Opinion and Order*.<sup>8</sup> In the *Broadband PCS Memorandum Opinion and Order*, we declined to permit broadband PCS licensees to engage in unrestricted partitioning of their licenses. We perceived a significant risk that partitioning could be used to circumvent construction requirements.<sup>9</sup> In the *Competitive Bidding Fifth Report and Order* in 1996, however, we permitted broadband PCS licensees to partition their licenses if the proposed assignee was a rural telephone company ("rural telco").<sup>10</sup> In the *NPRM* in this docket, we addressed the issue of whether to amend our PCS partitioning and disaggregation rules.<sup>11</sup> Our goal was to enable a wide variety of PCS applicants, including small businesses, rural telcos, and businesses owned by members of minority groups and women to overcome entry barriers through the creation of smaller, less capital intensive licenses that are within the reach of smaller entities.<sup>12</sup> We sought to promote technical advancement and participation by diverse entities, facilitate the efficient use of broadband PCS spectrum, increase competition, and expedite the provision of broadband PCS to areas that may not otherwise receive PCS or other wireless services in the near term.<sup>13</sup>

3. In our *Partitioning and Disaggregation Report and Order* released on December 20, 1996, we adopted partitioning and disaggregation rules for broadband PCS licensees in order to provide all broadband PCS licensees with the flexibility to use their spectrum more efficiently.<sup>14</sup> We therefore permitted broadband PCS licensees in the A, B, D, and E blocks to partition their license areas at any time and eliminated the requirement that partitioning be limited to rural telcos.<sup>15</sup> Entrepreneur block (C and F block) licensees were permitted to partition to other entities similarly qualified as entrepreneurs during the first five years of their license term.<sup>16</sup> We further provided that after the first five years, entrepreneurs could partition to non-entrepreneurs; however, the partitioner would be required to pay the U.S.

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<sup>7</sup> Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, *Second Report and Order*, 8 FCC Rcd. 7700 (1993) (*Broadband PCS Second Report and Order*).

<sup>8</sup> Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, *Memorandum Opinion and Order*, 9 FCC Rcd. 4957 (1994) (*Broadband PCS Memorandum Opinion and Order*).

<sup>9</sup> *Id.* at 4990, ¶ 83.

<sup>10</sup> Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd. 5532, 5597-99, ¶¶ 150-52 (1994) (*Competitive Bidding Fifth Report and Order*); 47 C.F.R. § 24.714 (1996).

<sup>11</sup> See Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees, WT Docket No. 96-148, *Notice of Proposed Rulemaking*, 11 FCC Rcd. 10187 (1996) (NPRM).

<sup>12</sup> *NPRM*, 11 FCC Rcd. at 10195, ¶ 11.

<sup>13</sup> *Id.* at 10197, ¶ 15.

<sup>14</sup> *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21833, ¶ 2.

<sup>15</sup> *Id.* at 21848, ¶ 27.

<sup>16</sup> *Id.* at 21851-2, ¶¶ 31-32.

Government an unjust enrichment payment based on the population of the partitioned area.<sup>17</sup> We concluded that relaxing our PCS partitioning rules would help to: (1) remove potential barriers to entry, thereby increasing competition in the PCS marketplace; (2) encourage parties to use PCS spectrum more efficiently; and (3) speed service to unserved and underserved areas.<sup>18</sup>

4. Prior to the adoption of our *Partitioning and Disaggregation Report and Order*, we had prohibited the disaggregation of spectrum by broadband PCS licensees until January 1, 2000.<sup>19</sup> In the *Partitioning and Disaggregation Report and Order*, we removed the prohibition on disaggregation for non-entrepreneur block licensees.<sup>20</sup> We further allowed entrepreneur block licensees to disaggregate spectrum to qualifying entrepreneurs and applicants at any time; however, we prohibited disaggregation by entrepreneurs to non-entrepreneurs for the first five years of their initial license term.<sup>21</sup> We determined that allowing unrestricted entrepreneur block disaggregation would be inconsistent with our five-year restriction on full license transfers to non-entrepreneurs.<sup>22</sup> We declined to adopt a proposal by Omnipoint to permit entrepreneur block licensees to swap equivalent blocks of spectrum with non-entrepreneurs in the same geographic market, finding that the administrative burden of tracking such arrangements would far outweigh any benefit to the public.<sup>23</sup>

5. Finally, in our *Partitioning and Disaggregation Report and Order*, we decided that broadband PCS licensees entering into partitioning or disaggregation arrangements within three years of initial licensing would be subject to the reporting requirements set forth in section 1.2111(a) of the rules, which apply to full license assignments or transfers of control of auctions licenses.<sup>24</sup> Section 1.2111(a) states that an applicant seeking approval for a transfer of control or assignment of license application within three years of receiving a new license through competitive bidding must submit the associated contract for sale, option agreements, management agreements, or other documents (referred to jointly herein as "sales agreements") disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license.<sup>25</sup> Therefore, parties seeking approval of a broadband PCS partitioning and/or disaggregation application must submit a copy of their sales agreement if such application is submitted within three years of the award of the original broadband PCS license.

### III. DISCUSSION

#### A. Elimination of the Rural Telco Restriction

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 21843, ¶ 13.

<sup>19</sup> *Broadband PCS Memorandum Opinion and Order*, 9 FCC Rcd. at 4985 ¶ 69; 47 C.F.R. § 24.229(c) (1996).

<sup>20</sup> *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21858, ¶ 46.

<sup>21</sup> *Id.* at 21861, ¶ 53.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 21862, ¶ 54.

<sup>24</sup> 47 C.F.R. § 24.839(a).

<sup>25</sup> 47 C.F.R. § 1.2111(a).

6. Background. In our *Partitioning and Disaggregation Report and Order*, we broadened the partitioning rules to allow entities other than rural telcos to obtain partitioned licenses.<sup>26</sup> We found that continuing to restrict eligibility for partitioned licenses to rural telcos would prevent additional small businesses and other entities from using partitioning to enter the broadband PCS market and any such restriction would unreasonably reduce the number of potential entrants into the PCS marketplace without any corresponding public interest benefit.<sup>27</sup> We concluded that increasing the number of parties that may obtain partitioned PCS licenses would lead to more efficient use of broadband PCS spectrum and would speed service to underserved or rural areas.<sup>28</sup> We further rejected the argument raised by the rural telcos that unrestricted partitioning would effectively deprive them of any opportunity to obtain broadband PCS licenses.

7. Discussion. Rural telcos have not presented any evidence that the expansion of our partitioning rules has deprived them of opportunities to obtain broadband PCS licenses. AT&T argues, and we agree, that the measures we have adopted are sufficient to provide rural telcos with opportunities to provide broadband PCS. AT&T cites the *Broadband PCS Memorandum Opinion and Order*, where we increased the cellular attribution threshold for rural telcos, and our *Competitive Bidding Fifth Report and Order* decision to allow rural telcos to form bidding consortia and, pursuant to pre-auction agreements, to partition among themselves.<sup>29</sup> As AT&T and U.S. West also observe, partitioning is not the only means available to ensure the participation of rural telcos in the provision of broadband PCS.<sup>30</sup> We note that prior to amendment of our partitioning rules, we had already taken action to ensure the participation of small businesses, including rural telcos, in the provision of broadband PCS through the establishment of the entrepreneurs block auctions. By restricting participation in the C and F block auctions to entrepreneurs with average gross annual revenues of less than \$125 million and total assets of less than \$500 million, our rules provided an opportunity for small businesses, including rural telcos, to win broadband PCS licenses at auction. In addition, we have established broadband PCS frequency blocks of varying sizes (30 MHz, 15 MHz, and 10 MHz) and service areas of varying sizes (larger Major Trading Areas and smaller Basic Trading Areas) to ensure that entities with limited capital resources can participate in PCS.<sup>31</sup> We have also made bidding credits available to small businesses, and such credits have provided substantial aid to rural telcos.

8. We also disagree with NTCA's argument that rural telcos will not have an opportunity to obtain a broadband PCS license if partitioning is extended to other entities. NTCA contends that because the partitioning rules were adopted on December 13, 1997, five months after the deadline for participation in the D, E, and F block broadband PCS auction, rural telco business plans were harmed by adoption of the expanded partitioning rule. The auction results refute NTCA's claim that rural telcos had no opportunity to bid in the auction and were relying on partitioning as the sole means of acquiring broadband PCS licenses. Thirty-two rural telcos were winning bidders of 167 licenses in the D, E, and F block auction. This fact demonstrates that not all rural telcos were relying on partitioning to obtain broadband PCS licenses. Our

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<sup>26</sup> *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21843-21845.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* at 21843, ¶ 14.

<sup>29</sup> AT&T Opposition at 2 (citing *Competitive Bidding Fifth Report and Order*, 9 FCC Rcd. at 5597-99).

<sup>30</sup> AT&T Opposition at 2; U.S. West Opposition at Attachment, p. 7.

<sup>31</sup> *Broadband PCS Memorandum Opinion and Order*, 9 FCC Rcd. at 4988, ¶¶ 77-78.

records indicate that rural telcos accounted for 24 of the 88 winners of F block licenses in the original D, E, and F block broadband PCS auction (Auction 11), and 22 of those rural telcos qualified for small business bidding credits. Rural telcos also accounted for 12 of the 56 winners of C and F block licenses in the C, D, E, and F block broadband PCS auction held this year (Auction 22), and 10 of those rural telcos qualified for small business bidding credits. These auction results confirm that our rules have served to provide opportunities for rural telcos to obtain PCS licenses. Moreover, as we note above, those rural telcos that were relying on partitioning to obtain licenses will still be able to use this method and will continue to have the opportunity to use their unique market position to obtain partitioned PCS licenses in rural areas.

9. Accordingly, we do not agree with NTCA's argument that by changing our broadband PCS partitioning rule, we have abandoned our Congressional mandate to develop opportunities for rural telcos to provide broadband PCS services.<sup>32</sup> Moreover, we find that open and unrestricted partitioning will better serve "to further the rapid deployment of new technologies for the benefit of the public including those residing in rural areas, to promote economic opportunity and competition, and to ensure the efficient use of spectrum."<sup>33</sup> In light of these considerations, there is no basis for NTCA's claim that our amended partitioning rule violates section 309(j). We do not agree that rural telcos must be singled out for preferential treatment under our partitioning rules to satisfy our statutory obligations under section 309(j). Our broadband PCS auction rules have provided ample opportunities for rural telcos without resorting to exclusive preferences for those companies. Section 309(j) requires us, in designing auction rules for spectrum-based services, to maintain certain objectives, including the promotion of economic opportunity and competition.<sup>34</sup> We are required to ensure that the American people have access to new and innovative technologies, by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, such as rural telcos.<sup>35</sup> Section 309(j) does not specifically mandate exclusive partitioning of broadband PCS for rural telcos. We therefore affirm our decision to eliminate the rural telco restriction for broadband PCS partitioning and deny NTCA's Petition.

## B. Entrepreneur Block Spectrum Swaps

10. Background. In our *Partitioning and Disaggregation Report and Order* in this proceeding we permitted entrepreneur block licensees (broadband PCS blocks C and F) to disaggregate their spectrum to other parties qualifying as entrepreneurs at any time.<sup>36</sup> Entrepreneur block licensees were not permitted to disaggregate spectrum to non-entrepreneur block licensees (broadband PCS blocks A, B, D, and E) for the first five years of their initial license term.<sup>37</sup> Omnipoint suggested that in the A, B, and C blocks we permit spectrum swaps between entrepreneur block and non-entrepreneur block licensees for the same licensed area in order to permit broadband PCS licensees to negotiate with other licensees in the market to avoid adjacent channel interference issues.<sup>38</sup> Omnipoint argued that permitting in-market spectrum swaps

<sup>32</sup> NTCA Petition at 2.

<sup>33</sup> *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21843, ¶ 15 (citing 47 U.S.C. § 309(j)(3)(A), (B), and (D)).

<sup>34</sup> See 47 U.S.C. § 309(j).

<sup>35</sup> 47 U.S.C. § 309(j)(3).

<sup>36</sup> *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21861, ¶ 53.

<sup>37</sup> *Id.*

<sup>38</sup> Omnipoint Comments at 11-13.

would lead to more efficient management of licenses and quicker introduction of broadband PCS services.<sup>39</sup> In our *Partitioning and Disaggregation Report and Order*, we declined to adopt Omnipoint's proposal.<sup>40</sup> We found that the administrative burden of keeping track of such arrangements would far outweigh any benefit to the public.<sup>41</sup>

11. Discussion. In its Petition, Omnipoint raises the same spectrum swap argument for the D, E, and F blocks that it raised, and the Commission declined to adopt, for the A, B, and C blocks in the *Partitioning and Disaggregation Report and Order*.<sup>42</sup> Omnipoint proposes that we permit F block entrepreneur licensees to swap spectrum with D and E block non-entrepreneur licensees in the same market area at any time, contending that such swapping will allow licensees to avoid adjacent channel interference issues.<sup>43</sup>

12. We disagree with Omnipoint that the purported benefits of permitting F block licensees to swap spectrum with D or E block licensees in the same market during the initial five years of a license term outweigh other public interest considerations. As noted in the *Partitioning and Disaggregation Report and Order*, the PCS entrepreneur block spectrum is subject to a five-year prohibition on license transfers to non-entrepreneurs, and to unjust enrichment payment obligations where such a transfer occurs after the five-year period.<sup>44</sup> Under Omnipoint's proposal, an F block entrepreneur licensee would be allowed to transfer its license to a non-entrepreneur without regard to these restrictions or obligations, and would furthermore be able to "port" the financial benefits that attached to its entrepreneurs' license into a spectrum block in which such benefits are not available to other licensees. We believe this proposal would be inconsistent with our original determination that special provisions for entrepreneurs in broadband PCS should be limited to the C and F blocks.<sup>45</sup>

13. In addition, as we noted in the *Partitioning and Disaggregation Report and Order*, the

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<sup>39</sup> *Id.* at 12.

<sup>40</sup> See *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21862, ¶ 54.

<sup>41</sup> *Id.*

<sup>42</sup> Omnipoint Petition at 2.

<sup>43</sup> *Id.*

<sup>44</sup> See *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21862, ¶ 53.

<sup>45</sup> We note that the Wireless Telecommunications Bureau has released *Public Notices* seeking comment on requests to allow non-entrepreneurs to participate in the upcoming C and F block auction. See "Wireless Telecommunications Bureau Seeks Comment on SBC Communications Inc.'s Request for Waiver of the Eligibility Requirements for Participation in the Upcoming PCS C and F Block Auction," *Public Notice*, DA 00-145 (rel. January 31, 2000); "Wireless Telecommunications Bureau Seeks Comment on Nextel Communications, Inc.'s Petition Regarding PCS C and F Block Spectrum," *Public Notice*, DA 00-191 (rel. February 3, 2000); and "Extension of Filing Deadline For Comments To the Petitions Filed by SBC Communications, Inc. and Nextel Communications, Inc. Regarding PCS C and F Block Rules," *Public Notice*, DA 00-271 (rel. February 11, 2000). The Commission's actions in the present rulemaking proceeding should not be construed to prejudice any action the Commission or the Wireless Telecommunications Bureau might take in connection with the foregoing *Public Notices*.

administrative burden of tracking spectrum swaps outweighs any benefit to the public.<sup>46</sup> In order to facilitate PCS licensing, the Universal Licensing System (ULS) is currently programmed to process entrepreneur licenses differently than other licenses, particularly in connection with assignments and transfers. Among other things this enables the Commission to track the ownership of entrepreneurs licenses for financial recordkeeping purposes and for reporting to Congress and the Office of Management and Budget. To maintain the integrity of these functions while implementing Omnipoint's proposal would require significant reprogramming of ULS to account for licenses that were originally non-entrepreneur licenses becoming entrepreneur licenses as a result of a swap. Thus, allowing spectrum swaps in the D, E, and F blocks would pose the same problems that led the Commission to reject Omnipoint's identical proposal for the A, B, and C blocks without any additional benefit to the public. Because Omnipoint has failed to raise any new arguments, or evidence of adjacent channel interference in the absence of swaps, that would lead us to reconsider the Commission's prior decision, we decline Omnipoint's request that we reconsider this aspect of the *Partitioning and Disaggregation Report and Order*.

### C. Submission of Contracts for Sale

14. Background. In our *Partitioning and Disaggregation Report and Order*, we concluded that broadband PCS partitioning and disaggregation applications should be subject to the same procedures as full assignment or transfers of control applications.<sup>47</sup> As a result, PCS partitioning or disaggregation applicants are required, among other things, to comply with section 1.2111(a) of our rules.<sup>48</sup> Section 1.2111(a) states that applicants seeking approval of a transfer of control or assignment of license within three years of the grant of a new license through our competitive bidding procedures must file the associated contract for sale, option agreements, management agreements, or other documents (referred to jointly herein as "sales agreements") disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license.<sup>49</sup>

15. Discussion. Omnipoint argues that we should not require partitioning and disaggregation applications to include copies of their sales agreements.<sup>50</sup> We decline, however, to eliminate this requirement. Partitioning and disaggregation applications are similar to all other assignment applications to which the sales agreement submission requirement applies. There are no unique circumstances in the partitioning and disaggregation context that would warrant adopting a special exception to section 1.2111(a). The submission requirement is a valuable tool for ensuring compliance not only with our unjust enrichment requirements, as Omnipoint has noted,<sup>51</sup> but also with other assignment and transfer requirements such as verification of the *bona fides* of ownership and control.<sup>52</sup> With respect to Omnipoint's concern that parties may not want to submit such documents for fear of public disclosure, such parties may

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<sup>46</sup> *Partitioning and Disaggregation Report and Order*, 11 FCC Rcd. at 21862, ¶ 54.

<sup>47</sup> *Id.* at 21867-8, ¶¶ 70-71.

<sup>48</sup> 47 C.F.R. § 1.2111(a).

<sup>49</sup> *Id.*

<sup>50</sup> Omnipoint Petition at 5-7.

<sup>51</sup> *Id.* at 6.

<sup>52</sup> See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, 9 FCC Rcd. 2348, 2385 (1994).



follow our rules on confidential treatment of Commission submissions and request that these documents be withheld from public disclosure.<sup>53</sup> We therefore deny Omnipoint's Petition.

#### IV. CONCLUSION

16. We believe the rule changes we adopted in our *Report and Order* will allow more competitors to enter the marketplace and provide service to the public quickly and efficiently. These rule changes provide opportunities for rural telcos and other small businesses to provide broadband PCS to the public without increasing the administrative burden on the Commission. Thus, we affirm the rules adopted in the *Partitioning and Disaggregation Report and Order*.

#### V. ORDERING CLAUSES

17. IT IS ORDERED that, pursuant to sections 4(i), 302, 303(r), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 302, 303(r), and 332(a)(2), the Petitions for Reconsideration filed on February 5, 1997, by the National Telephone Cooperative Association and the Independent Alliance and Omnipoint Corporation ARE DENIED.

18. IT IS FURTHER ORDERED that pursuant to section 4(i), Communications Act of 1934, as amended, 47 U.S.C. § 154(i), the Motion for Stay Pending Judicial Review, filed on February 20, 1997, by the Rural Telecommunications Group IS DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary

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<sup>53</sup> See 47 C.F.R. §§ 0.457-0.459.

**APPENDIX A**

Petitions for Reconsideration

National Telephone Cooperative Association and  
the Independent Alliance (NTCA)  
Omnipoint Corporation (Omnipoint)

Oppositions

AT&T Wireless Services, Inc. (AT&T)  
GTE Service Corporation (GTE)  
U.S. West, Inc. (U.S. West)

Replies

NTCA

*Ex Parte Filings*

Adams Telephone Cooperative  
Cellular Telecommunications Industry Association  
Five Areas Telephone Cooperative Organization, Inc.  
Leaco Rural Telephone Cooperative, Inc.  
Central Texas Telephone Cooperative, Inc.

Other Pleadings

Rural Telecommunications Group: "Motion for Stay Pending Judicial Review"

Oppositions

AT&T  
GTE  
Personal Communications Industry Association

Response

3 Rivers PCS, Inc.